IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 467 OF 2007

WITH

CIVIL APPLICATION NO. 320 OF 2007

Tharkude Hotels Pvt. Ltd. .. Petitioner

V/s

Rupee Cooperative Bank Ltd. & Anr. .. Respondents

Mr.Y.S. Jahagirdar with Mr.A.A. Kumbhakoni and Mr.S.S. Kanitkar i/b Mr.G.S. Godbole for the Petitioner.

Mr.K.V. Tembe for Respondent No.1.

CORAM : H.L. GOKHALE, ACG. CJ. &
V.M. KANADE, J.

DATE : 20TH FEBRUARY 2007

P.C. :

1. Heard Mr.Jahagirdar for the Petitioner and Mr.Tembe for Respondent No.1.

2. The Petitioner is a private limited company running a hotel at Prabhat Road, Pune. It had taken good loans from the Respondent Bank and the amount mounted to over Rs.23,55,00,000/-. A notice under section 13(2) of the Securiisation and Reconstruction of Financial Assets and Enforcement of Security Interest

Act, 2002 (hereinafter referred to as "the Securitisation Act") was given by the Respondent Bank on 11th August 2003. The Petitioner replied on 22nd September 2003. The case of the Petitioner is that this reply had to be replied in view of the observations of the Apex Court earlier in **Mardia Chemicals Ltd. v. Union of India - (2004) 4 SCC 311**. This provision has been subsequently incorporated by introducing sub-section 3(A) in section 13. The grievance of the Petitioner is that the Bank proceeded to issue a further notice under section 13(4) of the Securitisation Act indicating the measures which the Bank proposed to take. On receiving that notice, the Petitioner filed one more representation though it did not prefer any appeal as available under section 17 of the Securitisation Act. The Bank has issued one more notice under section 13(4) of the Securitisation Act on 6th February 2007. The submission of the Petitioner is that it has paid more than Rs.8 crores in the meanwhile and, according to the Petitioner, with this payment nothing remains due and payable to the Respondent Bank.

3. The Bank may have its own position in this behalf. However, Mr.Tembe, learned counsel for the Respondent Bank, makes a statement on instructions that the Bank does not intend to prosecute further the

measures contemplated under the notice under section 13(4) of the Securitisation Act issued on 11th December 2003 or the one now issued on 6th February 2007. The Bank however maintains the notice issued earlier on 11th August 2003 under section 13(2) of the Securitisation Act. Mr.Tembe makes a further statement that the Bank will reply the representation made by the Petitioner earlier on 22nd September 2003. Mr.Jahagirdar, learned counsel for the Petitioner, however, states that now the Petitioner would like to make a comprehensive representation on all counts with respect to the earlier notice under section 13(2) of the Securitisation Act dated 11th August 2003 and the Petitioner would be satisfied if the same is responded by the Respondent Bank. Mr.Tembe assures to do the needful.

4. In view of the aforesaid statement made by Mr.Tembe, the Petitioner does not press this petition any more. Petition stands disposed of. Civil Application also stands disposed of.

ACTING CHIEF JUSTICE

V.M. KANADE, J.